



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

OPNAVINST 5090.1B CH-4
4 June 2003

OPNAV INSTRUCTION 5090.1B CHANGE TRANSMITTAL 4

From: Chief of Naval Operations

Subj: ENVIRONMENTAL AND NATURAL RESOURCE PROGRAM MANUAL

Encl: (1) Revised Table of Contents; Revised Chapters 10 and 12;
new Appendix P.

1. Purpose

a. To update guidance on requirements, delineate responsibilities, and issue policy for the management of the environment, natural and cultural resources for all Navy ships and shore activities.

b. To address the following specialized areas: Oil and Hazardous Substance Spills, Environmental Response Procedures for Sunken Vessels.

c. To address Hazardous Substance Management Ashore and provide guidance on the Applicability of RCRA to Military Munitions and Ordnance.

d. To publish a new guidance on Environmental Response Procedures for Sunken Vessels (Appendix P).

2. Action. Remove Table of Contents, Chapters 10 and 12, and replace with enclosure (1). Insert new Appendix P, which is enclosure (1).

R.D. REILLY, Jr.

RDML, U.S. Navy

Director, Environmental
Readiness Division

Distribution:
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IN REPLY REFER TO

OPNAVINST 5090.1B CH-3
17 October 2002

OPNAV INSTRUCTION 5090.1B CHANGE TRANSMITTAL 3

From: Chief of Naval Operations

Subj: ENVIRONMENTAL AND NATURAL RESOURCE PROGRAM MANUAL

Encl: (1) Revised pages 3 and 4, Table of Contents, Chapters 7, 8, 11, 12, 14, 18, 19, 21, 22, 23, 24; appendices A, D, F, and Z; new Chapter 28.

1. Purpose

a. To update guidance on requirements, delineate responsibilities, and issue policy for the management of the environment, natural and cultural resources for all Navy ships and shore activities.

b. To address the following specialized areas: Clean Water Act, Safe Drinking Water Act, PCB Management, Hazardous Waste Management, Solid Waste Management, Overseas Environmental compliance, Environmental compliance afloat, Ocean dumping, Natural Resources Management, Cultural Resources Management and Environmental and Natural Resources Training.

c. To publish a new guidance on Coastal Zone Management (Chapter 28).

d. To revalidate the reporting requirements contained in the instruction.

e. To review the annual or periodic reporting requirements contained in this instruction.

2. Cancellation. This instruction reflects the cancellation of the Annual ODS Inventory Report, OPNAV Report Symbol 5090-7.

OPNAVINST 5090.1B CH-3
17 Oct 2002

3. Action. Remove pages 3 and 4, Table of Contents, chapters 7, 8, 11, 12, 14, 18, 19, 21, 22, 23, 24, Appendices A, D, F, O, and Z, replace with enclosure (1) of this change transmittal. Insert new chapter 28.

A handwritten signature in black ink, appearing to read 'R.D. Reilly, Jr.', with a stylized, cursive script.

R.D. REILLY, Jr.
RDML (Sel), U.S. Navy
Director, Environmental
Readiness Division (OPNAV N45)

Distribution:
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OPNAVINST 5090.1B
1 November 1994

Environmental and Natural Resources Program Manual



Department of the Navy
Office of the Chief of Naval Operations
Washington, D.C. 20350



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

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OPNAVINST 5090.1B CH-2
N45
9 September 1999

OPNAV INSTRUCTION 5090.1B CHANGE TRANSMITTAL 2

From: Chief of Naval Operations

Subj: ENVIRONMENTAL AND NATURAL RESOURCE PROGRAM MANUAL

Encl: (1) Revised pages 3 and 4, table of contents,
 chapters 1, 2, 3, 4, 6, 8, 9, 10, 13, 14, 15, 16,
 19, 20, 22; appendices B, D, H, I, K, L, Y,
 and Z; new chapter 27 and new appendix M

1. Purpose

a. To discuss requirements, delineate responsibilities, and issue policy for the management of the environment and natural resources for all Navy ships and shore activities.

b. To provide new chapter 27, new appendix M and change old appendix M to appendix Z.

c. To revalidate the reporting requirements contained in the instruction, to modify reporting requirements for oil spills contained in chapter 10, and announce a new report, the Preliminary Impact and Exposure Report.

2. Cancellation. This instruction supercedes CNO ltr 5090 Ser N456/8U595188 of 9 Mar 98, Modification of Procedures for Implementing the National Environmental Policy Act and Report Symbol OPNAV 5090-1.

3. Action. Remove pages 3 and 4, table of contents, chapters 1, 2, 3, 4, 6, 8, 9, 10, 13, 14, 15, 16, 19, 20, 22 and appendices B, D, H, I, K, L, M and Y and replace with enclosure (1) of this change transmittal.

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5090.1B CH-1
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OPNAV INSTRUCTION 5090.1B CHANGE TRANSMITTAL 1

From: Chief of Naval Operations

Subj: ENVIRONMENTAL AND NATURAL RESOURCE PROGRAM MANUAL

Encl: (1) Table of contents; revised chapters 2, 3, 4, 5, 6, 13, 14, 16, 19, 23, 24, 25, and appendices B, C, D, K, L, and O; new appendices L and Y

1. Purpose

a. To discuss requirements, delineate responsibilities, and issue policy for the management of the environment and natural resources for all Navy ships and shore activities.

b. To provide new appendix L and change old appendix L to appendix Y.

c. To revalidate the reporting requirements contained in the instruction and to delete the requirement for the Air, Water, Solid Waste, Noise, Pesticide, And Radiation Pollution Control (A-106) Report .

2. Cancellation. OPNAVINST 4110.2, Hazardous Material Control and Management dated 20 June 1989 and report control symbol DD-A&T (A) 1383 (5090).

3. Action. Remove table of contents, chapters 2, 3, 4, 5, 6, 13, 14, 16, 19, 23, 24, 25, and appendices B, C, D, K, L and replace with enclosure (1) of this change transmittal.

A handwritten signature in black ink, appearing to read "J.W. Taylor".

J.W. Taylor
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OPNAVINST 5090.1B
N45
1 November 1994

OPNAV INSTRUCTION 5090.1B

From: Chief of Naval Operations

Subj: ENVIRONMENTAL AND NATURAL RESOURCES PROGRAM MANUAL

1. Purpose

a. To discuss requirements, delineate responsibilities, and issue policy for the management of the environment and natural resources for all Navy ships and shore activities.

b. This is a significant revision to the Environmental and Natural Resources Program Manual, and the manual should be reviewed in its entirety.

2. Cancellation

a. OPNAVINST 5090.1A

b. Shoreside Cost of Compliance Report, Report symbol OPNAV 5090-10

c. Ship's Cost of Compliance Report, Report Symbol OPNAV 5090-11

d. PCB Inventory Form, OPNAV 5090/1 (REV 3-83)

e. Solid and Hazardous Waste Annual Report Form, OPNAV 5090/2 (Rev 3-83).

3. Discussion

a. The Navy's ability to accomplish its mission requires daily operations in the land, sea, and air environments. The Navy is committed to operating in a manner compatible with the environment. National defense and environmental protection are and must continue to be compatible goals. Therefore, an important part of the Navy's mission is to prevent pollution, protect the environment, and protect natural, historic, and cultural resources. In order to accomplish this mission element, personnel must be aware of the environmental and natural resources laws and regulations which have been established by Federal, State, and local governments. The Navy chain of command must provide leadership and a personal commitment to ensure that

all Navy personnel develop and exhibit an environmental protection ethic.

b. The number of environmental regulations has increased significantly in recent years, and these regulations are in a continuous state of change. This instruction discusses Federal regulations, Department of Defense (DoD) requirements, and Navy requirements which apply to Navy ships and shore activities. In addition, shore activity personnel must ensure they are aware of, understand, and comply with the additional requirements imposed upon their activities by State and local governments. This instruction addresses procedures by which ships will be made aware of the applicable State and local requirements for U.S. ports in which they may be moored.

c. Summary of Changes

(1) This instruction has been revised to describe recent changes in environmental legislation, regulations, and enforcement which have taken place since the issuance of OPNAVINST 5090.1A in October, 1990. It also describes command responsibilities for environmental management, and describes updated funding procedures.

(2) The instruction contains 25 chapters in lieu of the 20 contained in the previous instruction. Previous Chapters 1, 2, and 3 have been combined into a single new chapter titled "Environmental Policy, Organization and Funding." The previous Chapter 9 titled "Hazardous Waste and PCB Management Ashore" has been divided into two Chapters, 11, and 12, titled "PCB Management Ashore" and "Hazardous Waste Management Ashore," respectively. New chapters have been added for "Pollution Prevention," (Chapter 3), "Procedures for Implementing the Emergency Planning and Community Right to Know Act" (Chapter 4), the "Management of Ozone Depleting Substances" (Chapter 6), "Overseas Environmental Compliance Ashore", (Chapter 18), and "Environmental and Natural Resources Training" (Chapter 24). "Sampling and Laboratory Testing" (Chapter 25) text will be included in a future change of this instruction.

(3) Other important changes in this instruction include:

(a) Direction is given to reflect the passage of legislation since the last update of OPNAVINST 5090.1A in 1990. Some Acts of note include: the Federal Facility Compliance Act (FFCA), the Oil Pollution Act of 1990 (OPA 90), the Pollution Prevention Act of 1990 (PPA), and the Water Resources Development Act of 1992.

(b) Major revision of the Clean Air Ashore chapter reflects the impact on the Navy of the Clean Air Act Amendments of 1990 (Chapter 5).

(c) Guidance on ship environmental operations has been updated and reformatted (Chapter 19).

(d) New appendices have been added: Appendix E, "Environmental Effects Abroad of Major Navy Actions," Appendix F, "Chief of Naval Operations Interim Guidance on Compliance With the Clean Air Act General Conformity Rule," (text to be added in a future change of this instruction) and Appendix G, "Guidance on Developing Activity Pollution Prevention Programs and Implementing Pollution Prevention Program Elements."

4. Action

a. This instruction is applicable to all Navy commands afloat and ashore. The policies, procedures, and actions required are published without the necessity for further implementing instructions from the various commands, bureaus, and offices, except as specifically directed. However, organizations that have significant environmental or natural resources responsibilities may find it necessary to provide additional guidance and supplemental instructions specific to their local area.

b. Addressees shall enhance the quality of the environment, prevent environmental pollution, and provide the necessary direction to ensure the provisions of this instruction are implemented on a continuous basis.

c. The policies and responsibilities of this instruction are effective on the date of signature. All commands shall implement the requirements of this instruction into their operations in an expeditious manner. Monitoring of the implementation of this instruction shall be a part of the Environmental Compliance Evaluations (ECEs) described in Chapter 20.

5. Reports and Forms

a. The following reports required by this instruction are approved per SECNAVINST 5214.2B:

(1) Oil Spill Report, Report Symbol OPNAV 5090-2 (MIN CONSIDERED), Chapter 10 and Appendix H.

(2) Hazardous Substance Release Report, Report Symbol OPNAV 5090-3 (MIN CONSIDERED), Chapter 10 and Appendix I.

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17 October 2002

(3) Annual Solid and Hazardous Waste Report, Report Symbol DD-A&T (SA) 1485 (5090), Chapters 12 and 14.

(4) Report of Receipt of Notice of Violation or Noncompliance, Report Symbol 5090-4, Chapter 20 and Appendix B.

(5) Burial at Sea Report, Report Symbol OPNAV 5090-9, Chapter 21.

(6) Target Vessel Sinking Report, Report Symbol OPNAV 5090-12, Chapter 21.

(7) Preliminary Impact and Exposure Report (PIER), Report Symbol OPNAV 5090-15. Chapter 27.

(8) Environmental Quality Assessment (formerly Environmental Compliance Evaluation Report), Report Symbol OPNAV 5090-5, Chapter 20.

b. The OPREP reports required by this instruction are exempt from reports control by SECNAVINST 5214.2B.

c. The following forms are available from the Navy supply system and may be requisitioned per NAVSUP P-2002D.

<u>FORM</u>	<u>TITLE</u>	<u>STOCK NUMBER</u>
DD 1348-1 (7/91)	DoD Single Line Item Release/ Receipt Document	0102-LF-013-7500
DD 2521 (12/88)	Hazardous Material Warning Label	0102-LF-012-0800
DD 2522 (12/88)	Hazardous Material Warning Label	0102-LF-012-1100



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CHAPTER 10

OIL AND HAZARDOUS SUBSTANCE SPILLS

10-1 Scope

This chapter identifies Navy requirements to plan for and respond to oil discharges and hazardous substance releases (OHS spills) from Navy vessels and shore facilities worldwide. This chapter summarizes Navy planning and response requirements for Navy and non-Navy OHS spills. Chapter 12 describes the comprehensive management of hazardous materials and hazardous waste. Chapters 9 and 19 discuss the prevention and minimization of oil pollution at shore facilities and aboard ship, respectively. Chapter 18 covers Navy policy for overseas activities, and chapter 27 identifies Navy responsibility with respect to Natural Resource Damages in the aftermath of OHS spills.

10-1.1 References.

- a. 29 CFR 1910.119 and 120, Hazardous Waste and Emergency Response;
- b. 40 CFR 117, 302 and 355, Reportable Quantities of Hazardous Substances.
- c. 40 CFR 300, National Oil and Hazardous Substances Pollution Contingency Plan.

10-2 Legislation

10-2.1 Federal Water Pollution Control Act of 1972 (FWPCA) as amended by the Oil Pollution Act of 1990 (OPA 90), 33 USC § 1321

- a. The FWPCA prohibits the discharge of oil and hazardous substances in such quantities as may be harmful into or upon the navigable waters of the United States, including the contiguous zone, exclusive economic zone and adjoining shorelines.
- b. The FWPCA provides the authority for the establishment of the National Response Team, the National Response Center and the National Contingency Plan (NCP).
- c. The NCP establishes the roles and responsibilities of various Federal agencies to provide for efficient, coordinated and effective action to minimize damage from oil discharges and hazardous substance releases.
- d. The FWPCA, as amended by OPA 90, provides for the preparation and submission of response plans for tank vessels, offshore facilities, and onshore facilities that could reasonably be expected to cause substantial harm to the environment by discharging into or upon the navigable waters, adjoining shorelines, or the exclusive economic zone. The FWPCA must be read carefully as it contains different requirements for commercial and public vessels. The OPA 90 amendments to the FWPCA call for the periodic inspection of response equipment and drills. These amendments also establish new administrative and civil penalties for violations of the FWPCA and expand administrative provisions under the FWPCA.
- e. Under the FWPCA, the NCP and Executive Order 12777, the Federal On-scene Coordinator (OSC) is the Federal official pre-designated by the Environmental Protection Agency (EPA) or the Coast

Guard to coordinate and direct response to OHS spills. The OSC has authority to enforce the administrative and criminal provisions of the law. The FWPCA also requires vessels and facilities to report OHS spills.

10-2.2 Oil Pollution Act of 1990 (OPA 90), 33 U.S.C. §2701 *et seq.*:

a. OPA 90 revises the FWPCA and other statutes to expand Federal and State involvement in the nation's oil and hazardous substances spill prevention, preparedness, and response activities. Public vessels are exempt from the provisions of OPA 90. Navy shore facilities must comply.

b. OPA 90 also establishes the Oil Spill Liability Trust Fund (OSLTF) as a source for funding removal costs, including the cost of monitoring removal actions, consistent with the NCP. The OSLTF is administered by the Coast Guard and consists of the Emergency Fund and the Principal Fund. The Emergency Fund is to fund removal actions by Federal OSCs, initiate Natural Resources Damage Assessments, and fund immediate removal actions by States. The Principal Fund is used to pay claims against the OSLTF and for congressional appropriations to carry out other OPA 90 requirements.

c. OPA 90 provides for natural resource trustees to act on behalf of the public to assess damages and to develop and implement a plan for restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources injured, lost or destroyed as a result of a discharge of oil. For additional discussions of trustee responsibilities and natural resource damage assessment procedures, refer to chapter 27.

10-2.3 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9601 *et seq.*

a. CERCLA provides the government with authority to compel persons to clean up releases of hazardous substances (HS). It also contains provisions which make responsible parties liable for the costs of clean-up, and the creation of the hazardous substance Superfund which enables an OSC to conduct clean-up.

b. CERCLA also requires facilities to report the release of any of the more than 700 listed hazardous substances to the National Response Center. CERCLA exempts oil from the list of hazardous substances created by the FWPCA/Clean Water Act (CWA) and the Toxic Substances Control Act, among others.

c. CERCLA gives the EPA (for inland zones) and the Coast Guard (for coastal zones) the authority to designate an OSC to direct emergency response and OHS removal activities. The OSC is provided with administrative and enforcement authority to implement the provisions of CERCLA. Under the NCP (40 CFR 300.120), the Department of Defense (DOD) is required to provide the OSC for releases of hazardous substances from DOD facilities or vessels.

10-2.4 The Emergency Planning and Community Right-to-Know Act of 1986, (EPCRA), 42 U.S.C. §11001, *et seq.* EPCRA requires industry and Federal (by subsequent Executive Order), State and local governments to report hazardous and toxic chemical releases to the public. EPCRA requires these entities to identify potential risks to a surrounding community from a facility or operation that handles hazardous substances and sets forth community notification procedures. (See chapter 4.)

10-2.5 Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901, *et seq.*

a. RCRA establishes requirements for facilities which generate, transport, treat, store, or dispose of solid and hazardous wastes. RCRA has several programs, including very detailed and specific requirements for facilities that deal with hazardous wastes, non-hazardous solid wastes, underground storage tanks and used oil. In general, the RCRA regulations address the day-to-day management of hazardous wastes.

b. RCRA requires contingency plans designed to minimize hazards to human health and the environment. These plans should provide information on facility emergency equipment, evacuation, and coordination (40 CFR Parts 260-282). Activities must submit a copy of these plans to all local police and fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services.

10-2.6 Clean Air Act Amendments of 1990 (CAA), 42 U.S.C. §7401, *et seq.*

a. One of the goals of the CAA Amendments was to prevent the accidental release of regulated substances and other extremely hazardous substances into the air and to minimize the consequences of those releases. The amendments focus on preventive measures for those chemicals that pose the greatest risk.

b. Section 112(r) establishes a general duty for stationary facilities to identify hazards that may result from the release of regulated substances, to design and maintain a safe facility, and to minimize the consequences of releases when they occur.

c. In 1992, The Occupational Safety and Health Administration (OSHA) issued a Process Safety Management of Highly Hazardous Chemicals Rule, reference (a), under the CAA Amendments. Reference (a) directs employers to establish a process safety management program to prevent or mitigate catastrophic chemical workplace emergencies and requires employers to have an emergency action plan.

10-2.7 Occupational Safety and Health (OSH) Act, 29 U.S.C. §651, *et seq.*

a. OSHA is primarily responsible for protection of worker health and safety under the OSH Act. OSHA has several standards that cover emergency response planning for facilities that handle, store, or transport hazardous substances. These requirements serve to protect facility employees and emergency responders.

b. Reference (a) also includes provisions to clean up uncontrolled hazardous waste sites, implement corrective action and establish routine and emergency hazardous waste operations.

c. OSH is applicable to Federal employees by Executive Order. Employers must implement a program that includes a written safety and health program, site evaluation and control, training, personal protective equipment, monitoring, medical surveillance, decontamination procedures and an emergency response program. Title 40 CFR 302 (Designation, Reportable Quantities, and Notifications) lists reportable quantities of HS. Title 40 CFR 261.3 defines hazardous waste.

10-2.8 State and Local Programs

- a. State programs requiring OHS spill prevention, preparedness, and response vary widely. All States require notification of State and local authorities of OHS spills. Certain States, and coastal States in particular, have stringent requirements for vessel and facility spill response plans and prevention measures that exceed Federal standards. DOD facilities, including Navy facilities, are subject to State and local facility prevention and response planning requirements.
- b. Navy Shipboard Spill Contingency Plans (SCP) are not subject to State regulations. Commands may, however, provide courtesy copies of SCPs to State regulators to promote strong, cooperative relationships with the local community.

10-3 Terms and Definitions

10-3.1 Area Committees. The Federal, State and local agencies who cooperate to prepare an Area Contingency Plan and work with State and local officials to pre-plan joint response efforts.

10-3.2 Area Contingency Plans (ACP). A plan prepared by the Area Committee to respond to worst case OHS spill scenarios, which identifies equipment and personnel available for such response activities. The ACP also identifies and prioritizes sensitive areas and natural resources, identifies strategies for their protection, and pre-approves specific countermeasures and removal actions within the planning area.

10-3.3 Contiguous Zone. A zone of the high seas that is contiguous to the territorial sea (see section 10-3.29) and extends 9 nautical miles (nm) seaward from the outer limit of the territorial sea.

10-3.4 Discharge. Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil. It excludes:

- a. Discharges by permit under the CWA.
- b. Discharges resulting from circumstances identified, reviewed and made a part of the public record regarding a permit issued or modified under the CWA, and subject to a condition in such permit.
- c. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under the CWA and caused by events occurring within the scope of relevant operating or treatment system.

The NCP defines discharge to include a substantial threat of discharge.

10-3.5 Dispersant. Any of several chemical agents that emulsify, disperse, or make soluble oil into the water column or promote the surface spreading of oil slicks to facilitate dispersal of the oil into the water column.

10-3.6 Exclusive Economic Zone (EEZ). A zone extending 200 nm from the territorial sea baseline, or to the maritime boundary of another country closer than 200 nm.

10-3.7 Facility. Any structure, group of structures, equipment or device (other than a vessel) used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing or transporting OHS. This term includes any motor vehicle, rolling stock or pipeline used for one or more of these purposes.

10-3.8 Facility Incident Commander (FIC). Commanders or commanding officers (COs) of designated naval shore facilities or complexes pre-designated by the cognizant Navy On-Scene Coordinator (NOSC) and required to prepare an OHS Facility Response Plan covering the area assigned by the NOSC. FIC designations are based on OHS spill risk and response capability of the command to ensure rapid, effective response to OHS spills within the assigned area.

10-3.9 Federal On-Scene Coordinator (Federal OSC). The Federal official pre-designated by the U.S. Environmental Protection Agency (EPA) or the United States Coast Guard (USCG) to coordinate and direct Federal responses under the NCP, except for DOD HS releases. In the case of HS releases from DOD facilities or vessels, DOD pre-designates the Federal OSC. The NOSC is the Federal OSC for Navy HS releases.

10-3.10 Hazardous Substance

- a. Any substance so designated by the FWPCA.
- b. Any element, compound, mixture, solution, or substance so designated by CERCLA.
- c. Any solid waste having the characteristics of, or listed as, a hazardous waste as defined under RCRA (but not including any waste suspended by an Act of Congress).
- d. Any toxic pollutant listed under the CAA.
- e. Any imminently hazardous chemical substance or mixture upon which the Administrator of the EPA has acted under the Toxic Substances Control Act (TSCA).

The term *does not* include petroleum, crude oil or any refined product (such as gasoline, diesel or fuel oil) not otherwise specifically listed or designated as a hazardous waste. Title 40 CFR Part 261.3.

The term *does not* include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

10-3.11 Incident Command System (ICS). An emergency response structure required by OSHA consisting of an individual in charge of the incident (Incident Commander) and four functional groups (Operations, Logistics, Planning and Finance) that support the Incident Commander. During major oil discharges, Federal agencies establish an ICS under the National Response System. State agencies may also establish an ICS. An ICS becomes a "Unified Command System" when the party responsible for the spill works jointly with State and Federal agencies. Where Navy is the potentially Responsible Party, the Navy Incident Commander, the State OSC, and the Federal OSC make up the Unified Command.

10-3.12 Navy On-Scene Coordinator (NOSC). The Navy official pre-designated to coordinate Navy OHS spill contingency planning and to direct Navy OHS spill response efforts in a pre-assigned area.

Shoreside NOSC's are normally Regional Environmental Coordinators (RECs) pre-designated by the cognizant Area Environmental Coordinator (AEC). (See chapter 1.) CINCPACFLT, CINCLANTFLT and CINCUS-NAVEUR pre-designate fleet NOSC's for assigned ocean areas. The NOSC is the Federal OSC for all Navy HS releases. The NOSC also acts as the incident commander for OHS spills beyond the FIC's assigned Area of responsibility (AOR), and as incident commander for spills which exceed the response capability of the FIC.

10-3.13 National Contingency Plan (NCP). The legal framework for Federal government OHS pollution contingency planning and response above the facility level. The NCP describes the National Response Team, the Regional Response Team and the National Response Center and designates the roles and responsibilities of DOD in national OHS spill response planning.

10-3.14 National Response Center (NRC). (800-424-8802 or 202-267-2675). The 24-hour OHS spill notification center, located at USCG headquarters in Washington, DC. The NRC is the single Federal notification point (outside the Navy chain of command) for emergency spill response. Having reported a spill to the NRC, an activity need make no further Federal notifications. The NRC is responsible for notifying the pre-designated Federal OSC of reported OHS pollution incidents.

10-3.15 National Response Team (NRT). The Federal response organization, consisting of 15 Federal agencies (including DOD), that coordinates OHS spill response and contingency planning efforts. The EPA chairs the NRT and the USCG sits as vice chair.

10-3.16 Navigable Waters. The surface waters of the United States, including the territorial seas. The term includes:

- a. All waters currently used, used in the past, or susceptible to future use in interstate or foreign commerce, including all waters subject to the ebb and flow of the tide;
- b. Interstate waters, including interstate wetlands;
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, and wetlands, the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;or
 - (3) That are used or could be used for industrial purposes by industries in interstate commerce;
- d. All impoundments of water otherwise defined as navigable waters under this sub-section;
- e. Tributaries of waters identified in paragraphs a through d of this sub-section, including adjacent wetlands; and

f. Wetlands adjacent to waters identified in paragraphs a through e of this sub-section: provided that waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not navigable waters of the United States.

10-3.17 NOSC Response Plan. The Navy plan to respond to OHS spill incidents within the NOSC's pre-assigned AOR that are beyond the capability of the spilling facility or vessel.

10-3.18 OHS Facility Response Plan. A plan of action for facility spill scenarios (coordinated with the local ACP) which identifies notification procedures, response and cleanup capabilities, management information, environmentally sensitive areas, natural resource protection strategies and measures to protect human health and safety.

10-3.19 Oil. Animal, vegetable or petroleum-based oil of any kind or in any form, including, but not limited to, fuel oil, sludge, oil refuse, oil mixed with wastes other than dredge spoils and refined products such as gasoline, diesel, jet fuel, and cooking oil.

10-3.20 Public Vessel. A vessel owned (or bareboat chartered) and operated by the U.S., or by a State or political sub-division thereof, or by a foreign nation, except when such vessel is engaged in commerce.

10-3.21 Qualified Individual (QI). The term used by the Coast Guard and EPA to designate the individual identified in the Oil and Hazardous Substance Facility Response Plan (OHS FRP) and NOSC OHS Spill Contingency Plan who:

- a. Is available on a 24-hour basis and able to arrive at the facility in a reasonable time;
- b. Is familiar with the implementation of the plan;
- c. Is trained in the responsibilities of the QI under the plan;
- d. Has authority to activate the OHS spill response organization;
- e. Has authority to direct the obligation of funds required to carry out response activities; and
- f. Will act as a liaison with the pre-designated Federal OSC.

10-3.22 Regional Contingency Plans (RCPs). RCPs are developed by the Regional Response Team to assist the OSC in the event that an incident exceeds the response capabilities identified in the ACP. The RCP sets forth the criteria permitting the use of alternative response techniques such as dispersants and in-situ burning.

10-3.23 Regional Response Team (RRT). The Federal response network under the NRT, consisting of representatives from regional Federal and State agencies. There are 13 RRTs, one for each of the 10 standard Federal Regions, and one each for Alaska, Oceania (Hawaii and the U.S. Pacific islands), and U.S. Caribbean islands. The RRT has the authority to approve or disapprove the use of alternative response techniques, such as dispersants, in-situ burning, and bioremediation.

10-3.24 Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, of any hazardous substance (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any HS or pollutant or contaminant). The term “release” *excludes*:

- a. Any spilling, leaking, etc. that results in exposure to persons solely within a work place.
- b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.
- c. Spilling, leaking, etc. of source, byproduct, or special nuclear material from a nuclear incident subject to the jurisdiction of the Nuclear Regulatory Commission, or any spilling, leaking, etc. of source, byproduct, or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978.
- d. The normal application of fertilizer and herbicides.

The NCP defines discharge to include a substantial threat of discharge.

10-3.25 Release, Federally Permitted. Any release of HS in compliance with Federal law including the CWA, the CAA, the Solid Waste Disposal Act (SWDA), the Marine Protection, Research, and Sanctuaries Act (MPRSA), and the Atomic Energy Act.

10-3.26 Reportable Quantity. A release of a CERCLA-listed HS or an EPCRA-listed Extremely Hazardous Substance (EHS) exceeding the limit for that substance. HS or EHS releases that equal or exceed these limits must be reported to Federal, State, and local authorities immediately upon discovery. See reference (b) for a list of Reportable Quantities.

10-3.27 Responsible Party. The person or persons who have caused, or could potentially cause an HS release or oil discharge, including the following categories:

- a. Vessels: Any person owning, operating, or bareboat chartering a vessel;
- b. Onshore Facilities (other than a pipeline): Any person owning or operating the facility, except where possession and right to use Navy property has been transferred to another person by lease, assignment, or permit;
- c. Offshore Facilities (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 USC §1501 *et seq.*)): The lessee or permit holder of the area in which the facility is located or the holder of a right of use or easement granted under applicable State law.

10-3.28 Spill of National Significance. A spill which, due to its severity, size, location, actual or potential impact on the public health and welfare, or the environment, or due to the necessary response effort, is so complex that it requires extraordinary coordination of Federal, State, local, and Responsible Party resources to contain and cleanup the discharge.

10-3.29 Sunken Navy Vessel. For the purposes of this chapter, a sunken Navy vessel, is an older, historic vessel that has been sunk due to armed conflict, act of God, or other reason. Such a vessel, for which the U. S. Navy retains title, may be located anywhere in the world.

10-3.30 Territorial Sea. For the purposes of this chapter, the territorial sea extends 3 nm seaward from the mean low water line of the nearest U.S. shoreline, including islands. (For international law purposes, however, the "territorial sea" extends 12 nm from shore.) See also sub-section 10-3.3 of this chapter.

10-3.31 United States (U.S.). The several States, District of Columbia, Commonwealth of Puerto Rico, Commonwealth of the Northern Marianas Islands, Guam, American Samoa, U.S. Virgin Islands, and any other territory or possession over which the U.S. has jurisdiction.

10-3.32 Vessel. Every type of watercraft or other artificial conveyance used, or capable of being used as a means of transportation upon the navigable waters of the U.S.

10-4 Requirements

10-4.1 Facility Response Plans (FRP)

a. Facilities must submit FRPs for a broad range of activities. Four Federal agencies regulate the different categories of facilities required to submit FRPs.

(1) The USCG regulates deepwater ports and marine transportation-related facilities. See Title 33 CFR 150, Deep Water Port Operations, and 33 CFR 154, Facilities Transferring Oil or Hazardous Material in Bulk.

(2) The EPA regulates non-transportation-related onshore facilities. See Title 40 CFR 112, Oil Pollution Prevention.

(3) The Research and Special Programs Administration (RSPA) of the Department of Transportation regulates mobile facilities (tank trucks, railroad cars, and portable tanks). See Title 49 CFR 130, Oil Discharge Prevention and Response Plans for Oil Transportation. RSPA also regulates onshore pipelines. See Title 49 CFR 194, Response Plans for Onshore Oil Pipelines.

(4) The Minerals Management Service regulates offshore platforms and offshore pipelines. See Title 30 CFR Parts 250 and 254, Response Plans for Offshore Oil Pipelines.

b. Most Navy facilities fall under either USCG or EPA jurisdiction. Facilities meeting the criteria for more than one type of facility are "complex facilities." Many Navy facilities fall under this category. A few Navy facilities with pipelines that leave the facility may also fall under the RSPA's jurisdiction. Additionally, Navy facilities with mobile sources may also fall under RSPA's jurisdiction. No facility requires more than one OHS FRP. However, each facility must submit an OHS FRP to each Federal agency that has jurisdiction over it. The requirements for the OHS FRP vary widely depending on the type of facility. For example, the information required for a mobile facility is not as extensive as that required for a non-transportation-related facility. There are certain essential elements common to all. These include:

- (1) An individual who can be reached on a 24-hour basis and has the authority to take necessary response action.
- (2) An emergency section of the plan that provides concise response direction.
- (3) Extensive drills and exercises with specified documentation and record-keeping.
- (4) A provision for regular update and review of FRPs.

10-4.1.1 Integrated Contingency Plan (ICP). A 1990 revision of the Clean Air Act required a Presidential Review of Federal statutes that addressed prevention, mitigation, and response to hazardous materials releases. The Presidential Review concluded that multiple laws and regulations, developed independently within the regulatory agencies, resulted in an expansive contingency planning structure. Additionally, the costs associated with developing multiple facility contingency plans, including reviews, updating, and plan re-submissions, represent a heavy financial requirement for plan holders. The NRT recommended consolidating the multiple requirements and revising the formats into a single Integrated Contingency Plan (ICP). The ICP offers a format for combining facility response planning documents into a single response document. An ICP is a single OHS spill response plan that fully complies with the OPA 90 regulations and, in addition, covers applicable response plan requirements from USCG, RSPA, OSHA, and EPA. Activities may elect to develop an ICP instead of a dedicated FRP.

10-4.1.2 ICP Replacement of FRP. Facilities with multiple planning requirements may elect to adopt the ICP format to take advantage of potential cost savings. Facilities should do so when submitting their various plans for agency approval.

The intent of the ICP option is not to create a new document, but to fold existing plans into a basic ICP format as they require resubmission. Facilities do not need to convert all current response plans to the ICP format at one time. A phased approach is encouraged to space the cost of conversion over a period of years.

10-4.2 Reporting OHS Spills

10-4.2.1 Within the U.S. Federal law requires that responsible parties immediately report to Federal authorities all OHS spills within U.S. jurisdiction (including U.S. waters, territories and possessions). Federal law provides criminal penalties for failure to report OHS spills.

a. **Quantities to Report.** Navy commands shall report by voice to the National Response Center at USCG Headquarters (NRC):

- (1) Any discharge of oil which causes a sheen upon (or discoloration beneath) the surface of the navigable waters of the United States;
- (2) Any discharge of oil which threatens to reach the navigable waters of the United States;
- (3) Any release of a hazardous substance in the United States (its territories, possessions or navigable waters) in excess of quantities proscribed by reference (b).

(4) When in doubt call the NRC.

b. **Facilities.** Navy facility commanders shall immediately report the fact and nature of any OHS spill from Navy installations by voice to the NRC at 1-800-424-8802 or 202-267-2675. Facility commanders shall also comply with State and local reporting requirements immediately thereafter.

c. **Vessels.** While public vessels are generally exempt from State and Federal reporting requirements, commanding officers and masters of Navy vessels shall immediately report the fact and nature of an OHS spill from their vessel by voice to the NRC at 1-800-424-8802 or 202-267-2675.

d. **Excess Navy Property.** Caretakers shall continue to report OHS spills from excess Navy property until the property passes to the management and control of local reuse authorities.

e. **Immediate Voice Report.** Activities should not delay NRC notification in order to obtain more detailed information about the incident. Immediate voice notification to the NRC fulfills all Federal notification requirements. If reporting activities cannot reach the NRC by voice on the first attempt, they shall immediately notify the nearest EPA office or USCG station.

f. **Sheen Sightings.** Responsible environmental stewardship and longstanding maritime tradition require that commanding officers report to proper authorities any oil on the water's surface discovered in the course of daily operations—whether at sea or in port—whether attributable to Navy sources or not. Accordingly, commanding officers shall submit voice and Navy message reports to appropriate Federal, State, local and military authorities for any oil sheen discovered by naval personnel—even if the cause or source of the spill is unknown. Such reports, however, should *not speculate as to cause or source* and *clearly indicate that a Responsible Party cannot be identified* from information then currently available.

g. **Extremely Hazardous Substances.** In addition to the reporting requirements set forth above, EPCRA requires all activities to report to State Emergency Response Commissions and Local Emergency Planning Committees any release of a reportable quantity of an Extremely Hazardous Substance that crosses the facility boundary or escapes to the atmosphere. See chapter 4.

10-4.2.2 Outside the U.S. For host nation reporting requirements, facility commanders should refer to the final governing standards applicable to overseas installations.

10-4.2.3 Internal Navy Reporting. Commanding officers shall immediately report the fact and nature of any OHS spill from Navy vessels or installations (in any amount, at any location, worldwide) to their chain of command and cognizant NOSC as follows:

- a. By voice immediately upon discovering the release.
- b. By official Navy Message in the format provided at appendices H and I to this instruction as soon as practicable.
- c. By update SITREP message as soon as the reporting activity becomes aware of new information concerning the origin, quantity, type, operation under way or cause of the spill. Similarly, *if the final estimate of the amount released differs substantially from the amount initially reported*, the reporting

activity must send an update SITREP message to all action and info addresses on the original spill message.

d. By sending a copy of every OHS spill report and follow-up message, including SITREPS and “after action reports” (where required by local instruction), to Chief of Naval Operations (CNO) (N45) and the Naval Facilities Engineering Service Center as addressed in appendices H and I.

NOTE

If you call the NRC, send a Navy message. If you call the State or local authorities, send a Navy message. If you are in doubt, send a Navy message.

10-4.2.4 OHS Release Report Message Format, Appendix H requires

a. Provided that prior voice reports have been made to the USCG National Response Center and the reporting command’s chain of command, the reporting command shall use “Routine” precedence for Oil Spill Report Messages. If the command has not made both voice reports, it shall use “Priority” precedence on the written message.

b. To advise the NOSC and Navy leadership of the magnitude of the spill, reporting activities shall enter the following volume classifications on the Subject line of each Oil Spill Report Message:

SUBJ: OIL SPILL REPORT, X GALLONS, [ACTIVITY NAME] ; or

SUBJ: OIL SPILL REPORT, UNKNOWN VOLUME, [ACTIVITY NAME]; or

SUBJ: OIL SPILL REPORT, SHEEN SIGHTING

c. Estimates of volume spilled using sea level visual observation of oil on water are unreliable. To take the uncertainty out of volume estimation, reporting activities should examine loss at the source (i.e. through tank soundings or flow rate calculations). Message writers shall not report estimates of volume by visual observation alone.

d. To remove speculation from the Navy spill reporting process, commanding officers are directed to report only “Unknown” for the following report elements until such time as definitively established: source of spill, volume spilled, type of oil discharged, operation underway when spill occurred/discovered and spill cause. Commands should issue updating SITREP messages as soon as better information becomes available.

e. In the case of unknown volume or type of oil discharged, reporting activities should give particular attention to paragraph 8 in the message on “Slick Description and Movement.”

f. Reporting activities should classify the cause of the spill by citing one or more of the following categories and ***then providing a narrative description of specific spill cause:*** Structural; electrical; hose; valve/fitting; tank level indicator; oil/water separator/oil content monitor; other equipment (specify component that failed); collision/grounding/sinking; valve misalignment; monitoring error; procedural or communications error; chronic or recurring discharge; or weather related.

10-4.3 OHS Spill Response. The NCP describes the roles and responsibilities of DOD in responding to DOD OHS spills.

a. In the case of a Navy HS release, the Navy assumes the role of the Federal OSC. As a Federal OSC, Navy will direct the Federal response effort, including coordination with the Area Committee and with other Federal, State, and local authorities.

b. In the case of oil, however, either EPA or the USCG assumes the broader role of the Federal OSC—depending upon the location of the spill. Typically, the EPA or USCG Federal OSC will merely monitor the Navy response effort and advise appropriate action, if necessary. If the EPA or USCG Federal OSC determines, however, that Navy response is inadequate or inappropriate, then the Federal OSC will assume command of response efforts. (In any case, COs and masters of public vessels remain in command of their vessels and personnel.)

c. The USCG or EPA Federal OSC will generally direct the response to a Spill of National Significance.

d. In the event of an OHS release from a Navy facility or vessel, the Navy will always assume initial responsibility for clean-up.

10-4.4 Non-DOD Spills. The Navy also responds to non-DOD spills. As one of 15 Federal agencies that comprise the NRT, DOD and its component Services must provide any response assistance they can upon request of the Federal OSC, insofar as such assistance would not impair DOD mission readiness. Additionally, the Naval Sea System Command's Supervisor of Salvage (SUPSALV) is one of several National Special Teams named in the NCP as available to provide assistance to the OSC. (See reference (c).) In the case of a large or salvage-related pollution incident, the Federal OSC may specifically request SUPSALV personnel, equipment, and expertise. To facilitate mobilization and funding of SUPSALV equipment and personnel for a non-DOD spill, SUPSALV and USCG have established an Interagency Agreement for Pollution Response.

10-4.5 Natural Resource Trusteeship. The NCP assigns responsibilities to certain Federal and State agencies for protecting natural resources held in trust for the U.S. public. In the aftermath of an OHS spill, The Secretary of Defense is responsible for protecting natural resources within Navy management and control. For further details on Natural Resource Trusteeship, see chapter 27 of this instruction.

10-5 Navy Policy

10-5.1 Navy Spill Response Planning

a. The Navy shall prepare to respond to Navy OHS spill incidents and undertake immediate, direct action to minimize the effect of a Navy OHS spill upon the environment. The Navy's OHS pollution contingency planning and response organization executes this policy. This organization uses existing chains of command and regional coordination authorities to satisfy the requirements and intent of applicable statutes and regulations.

b. In addition to response assets available from local Navy activities, commercial oil pollution response assets (available through Basic Ordering Agreements pre-negotiated by the USCG) may be a commanding officer's best means of meeting the response requirements of more significant spill scenarios.

When engaging commercial spill response assets, Navy commands should carefully assess and monitor legal, financial and technical factors.

c. The NOSC should consider activating SUPSALV for all OHS spills that exceed local capabilities. SUPSALV maintains and operates an extensive inventory of oil discharge containment and recovery equipment with the requisite knowledge and expertise to support such operations.

d. Membership in oil spill cooperatives potentially exposes the Navy to the risk of significant liability. Accordingly, Navy activities considering membership in an oil spill cooperative shall forward to CNO (N45) a request to participate.

10-5.2 Health and Safety. The health and safety of Navy personnel and the public shall be the highest priority of all Navy OHS spill response operations. Responders shall comply with all requirements of reference (a) and OPNAVINSTs 5100.19D and .23E.

10-5.3 Navy Spills. The Navy will respond immediately and effectively to all Navy OHS spills. Navy policy is to conduct all Navy OHS pollution responses in such a manner as to retain control of the response. Should the Federal OSC assume control of an oil spill response—upon a determination that Navy response actions are ineffective or inadequate—commanding officers and masters of Navy vessels will remain in command of and responsible for their vessel and crew.

10-5.4 Military Sealift Command (COMSC). The Navy will manage response to OHS spills from vessels, owned operated or chartered by COMSC, as follows:

a. Any vessel carrying the designation of United States Naval Ship (USNS) is a public vessel of the United States. The NOSC will respond to an OHS spill from a USNS vessel just as it would a spill from any other Navy vessel.

b. Any vessel owned by the U.S. Maritime Administration (MARAD) and operated under MSC control is a public vessel of the United States. The NOSC will respond to an OHS spill from an MSC controlled MARAD vessel just as it would a spill from any other Navy vessel.

c. Vessels under bare-boat charter (or long term build-to-charter lease) to MSC ***and operated by MSC exclusively for the benefit of the United States***, are public vessels of the United States for the purposes of this instruction. The NOSC will respond to an OHS spill from such a vessel just as it would a spill from any other Navy vessel.

d. Commercial vessels under time or voyage charter to MSC are ***not*** public vessels and must comply with all international, Federal and State pollution prevention and control regulations. Such regulations generally do not permit commercial vessels to cite or rely upon Navy response assets in their OHS spill contingency plans.

10-5.5 Non-Navy Spills. The Federal OSC may request Navy response assistance for non-Navy spills. The Navy will respond to such requests under the terms and conditions of the NCP and the Navy SUPSALV/Coast Guard Interagency Agreement for Pollution Response.

10-5.6 Salvage-Related Spills. The Navy shall direct response efforts to pollution incidents resulting from Navy vessel casualties such as grounding and collision. Fleet salvage forces shall take all reasonable precautions to reduce the threat of OHS pollution from stricken Navy vessels.

10-5.7 Collision with Navy Vessels. Where a collision between a Navy vessel and non-Navy vessel results in an OHS spill from the non-Navy vessel, the Navy will provide immediate spill response assistance, regardless of fault. In such situations, the cognizant Navy Fleet Commander shall report the spill, monitor the situation and offer appropriate support to the stricken vessel.

10-5.8 Non-Navy DOD Spills. In the case of large marine oil discharges, requests for Navy assistance from the Defense Logistics Agency, the Marine Corps or other DOD components are particularly likely. Navy response to such requests shall be consistent with procedures established by the DOD and any applicable inter-service agreement.

10-5.9 Oil Spills from Sunken Navy Vessels. The Navy retains title to a number of vessels that were sunk while in Navy service due to armed conflict, act of God or other reason. Navy response to oil spills from such vessels, or oil spills that are reported to be from such vessels, shall be conducted in accordance with the procedures in Appendix P.

10-5.10 Natural Resources Damages. In the case of a Navy OHS spill or a non-Navy spill which threatens natural resources within Navy management or control, the Navy will immediately undertake a preliminary assessment of the risk to natural resources and take all reasonable measures necessary to mitigate potential injury to same. Chapter 27 of this instruction details Navy policy on Natural Resource Damages.

10-5.11 Training. Navy activities shall train all Navy personnel involved in OHS spill contingency planning and response in accordance with chapter 24 of this instruction, and reference (a).

10-5.12 Drills and Exercises

a. Facilities. Navy shoreside facilities shall conduct one OHS spill notification drill during each calendar quarter. One of these emergency procedure drills shall be unannounced each year. Facilities with spill response equipment shall also conduct one equipment deployment drill in each 6-month period. Each shore facility shall conduct one spill management team table-top exercises each year, in accordance with its OHS Facility Response Plan. Facility spill management team personnel shall, once in each 3-year period, participate in NOSC or USCG sponsored “area exercises” designed to test worst-case spill response capabilities. Activities shall document each of these drills and exercises in accordance with the OHS Facility Response Plan. Navy facilities may take drill and exercise credit for actual spill events, if the events meet drill and exercise objectives. Facility commanders shall periodically evaluate their facility response plans in light of the lessons learned from drills and exercises.

b. NOSC. NOSC shall, once in each 3-year period, exercise regional spill management team personnel in NOSC or USCG sponsored “area exercises” designed to test worst-case spill response capabilities. NOSC shall document these exercises in accordance with the NOSC OHS Response Plan. NOSC may take credit for actual spill events, provided the events meet triennial area exercise objectives. NOSC shall periodically evaluate their NOSC OHS Response Plans in light of the lessons learned from these exercises.

10-6 Responsibilities

10-6.1 COMNAVSEASYSCOM shall

- a. Assist AECs in the development and update of the area-wide OHS spill contingency planning and response instructions.
- b. Develop and issue the NOSC plan format, and assist NOSCs in major OHS pollution response issues as they arise and in decision-making for major or offshore/salvage-related response operations.
- c. Assist NOSCs in the development and updating of NOSC plans to include worst case spill scenario planning.
- d. Assist NOSCs in meeting drill and exercise requirements for testing and exercising Navy capabilities to respond up to worst case spill scenarios.
- e. Provide expertise and equipment at the request of the NOSC for offshore or salvage-related OHS pollution incidents.
- f. Coordinate the dissemination of lessons learned from major drills, exercises and spill events.
- g. Determine requirements, budget for, and obtain investment category equipment for major and salvage-related spill response.
- h. With COMNAVFACENGCOM, assist major claimants' response training needs, and develop and provide associated training curricula and courses.
- i. Provide advice, personnel, and equipment, as appropriate for joint salvage/pollution operations.

10-6.2 COMNAVFACENGCOM shall

- a. Assist facility commanders and commanding officers with the development of OHS FRP plans.
- b. With COMNAVSEASYSCOM, assist major claimants and AECs in the determination of emergency response training needs, and develop and provide associated training curricula and courses.
- c. Determine requirements, budget for, and obtain investment category equipment for inland water and harbor oil discharge control.
- d. Coordinate Navy access to USCG Basic Ordering Agreements for response to spills beyond the capability of the facility.
- e. Review and, if appropriate, approve requests by Navy shore commands to participate in spill cooperatives.
- f. Provide Naval Oil and Hazardous Substance Spills Annual Report to CNO.

10-6.3 All Major Claimants shall

- a. Ensure that all staff personnel within their claimancy who have responsibilities under this chapter (including but not limited to safety, public affairs, logistics, legal, comptroller, security, communications and transportation personnel) receive the general environmental overview training specified in chapter 24 of this instruction and introductory or executive overview training in emergency response management and become familiar with the provisions of this chapter.
- b. Fund OHS spill response expenditures beyond the capability of the Navy subordinate activity ultimately responsible for the cost of spill clean-up.
- c. Ensure cognizant facilities fully comply with Federal, State and international/foreign, laws and regulations for spill prevention, readiness, and response.

10-6.4 Fleet CINCs/AECs shall

- a. Develop and periodically update an area-wide OHS spill contingency planning instruction specifying NOSC and facility responsibilities for OHS spill contingency planning and response in the AOR.
- b. Pre-designate NOSC's to plan for and direct response efforts to OHS spills from Navy vessel and shore activities throughout their AOR.
- c. Coordinate with SUPSALV for the development, revision and update of the area-wide OHS spill contingency planning instruction and the individual NOSC plans.
- d. Establish contingency planning and response policies in their areas consistent with this instruction.
- e. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.5 Fleet NOSC's shall

- a. Develop area-wide fleet NOSC plans in a format prescribed by COMNAVSEASYS COM and the AEC instructions. Coordinate these plans with adjacent shoreside NOSC's. Plan coverage shall provide for vessels under the Fleet NOSC's operational control and for vessels not under their operational control but outside any adjacent NOSC's AOR.
- b. Promptly notify Federal, State, regional, local, or foreign governments when required.
- c. Ensure that Operation Orders and instructions containing guidance or policy for fleet OHS pollution response are consistent with fleet NOSC plans and Senior Officer Present Afloat (SOPA) instructions.
- d. Coordinate shoreside NOSC plans with fleet planning and operations and ensure that Navy SOPA instructions contain guidance for fleet OHS spill response that is consistent with the shoreside NOSC plans.
- e. Direct response operations and coordinate closely with ongoing fleet salvage operations
- f. Ensure the health and safety of response personnel at any point during on-scene response

10-6.6 Shoreside NOSC (in U.S. Areas) shall

- a. Ensure Navy facilities can control, contain and clean up OHS spills, and evaluate impacts to natural resources. The shoreside NOSC may direct all major response efforts for Navy OHS spills within assigned shoreside boundaries to include coastal areas out to the 12 nm zone.
- b. Serve as the Federal OSC under the NCP for Navy HS releases within assigned geographic boundaries.
- c. Pre-designate shoreside FICs and pre-assign geographic areas for response.
- d. Coordinate response operations with adjacent NOSC, including fleet NOSC, for Navy OHS spills that may have an impact on more than one NOSC region.
- e. Ensure the health and safety of response personnel at any point during on-scene response.
- f. Develop, in the general format prescribed by COMNAVSEASYSCOM or the AEC's instructions, area-wide NOSC OHS spill response plans, and coordinate the development of the plans with the applicable RCPs and ACPs. Shoreside NOSC shall ensure that an appropriate plan or plans cover all facilities.
- g. Coordinate with other DOD component OSC plans, including Marine Corps plans, to the extent specified by the DOD or as required by any Navy/DOD component inter-service agreement.
- h. As a minimum, conduct a thorough annual response plan review for all facilities and, if necessary, revise the NOSC plan.
- i. Coordinate response operations with the DOD representative to the RRT.
- j. Direct and coordinate response operations closely with ongoing fleet salvage operations.
- k. Coordinate shoreside NOSC plans with fleet planning and operations.
- l. Take the lead in coordinating triennial exercises.
- m. Coordinate a drill schedule for all facilities under the NOSC's cognizance to effect cost savings and ensure uniformity and effectiveness of the exercises.
- n. Conduct combined exercises, whenever appropriate to reduce costs.
- o. Coordinate with SUPSALV to ensure that facilities within the NOSC's cognizance receive credit for oil spill removal organization drills conducted within the response area.
- p. Ensure that activities in their area of responsibility act in accordance with all Federal, State, and local OHS spill notification procedures. (See 10-4.2.)
- q. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.7 Shoreside NOSC (in Foreign Areas) shall

- a. Develop overseas NOSC OHS spill contingency plans in the format prescribed by COMNAV-SEASYS COM, consistent with AEC instructions and Final Governing Standards, and coordinate the development of these plans with applicable host nations.
- b. Oversee response operations for Navy OHS spills within assigned areas and coordinate response operations with adjacent NOSC and with applicable foreign nation agencies.
- c. Pre-assign geographic areas for response by USN shore facilities.
- d. Ensure that activities in their area of responsibility act in accordance with all required foreign country OHS spill notification procedures, within the guidelines established by the overseas environmental baseline guidance document (OEBGD) and applicable Final Governing Standards.
- e. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.8 Shoreside Commanding Officers (Designated FICs) shall

- a. Oversee response efforts for Navy OHS spills within pre-assigned areas until relieved by the NOSC, as well as support the NOSC for Navy response in areas outside the facility's boundaries.
- b. Develop, annually review, and periodically update facility plans in a format prescribed by COMNAVFACENGCOM and coordinate these plans with the NOSC spill contingency plan.
- c. Review FRPs for consistency with appropriate State and local environmental and emergency planning authorities.
- d. Make all required Federal, State, and local notifications for Navy OHS spills and make Navy chain of command notifications up to the NOSC level.
- e. Properly train assigned staff responsible for OHS response.
- f. Accomplish all quarterly and annual drill requirements.
- g. Incorporate drill and exercise requirements into routine business or other emergency drills wherever practicable.
- h. Tailor training curricula to include State and local emergency response laws and regulations.
- i. Maintain training records and documentation as required by Federal, State, and local regulations.
- j. Maintain the readiness of the Navy spill response capability assigned to the facility.

10-6.9 Shoreside Commanding Officers (Not Designated FICs) shall

- a. Develop, annually review and update activity OHS spill contingency plans in a format prescribed by COMNAVFACENGCOM.
- b. Coordinate OHS spill contingency plans with NOSC OHS Regional Response Plans.
- c. Properly train personnel who respond to or supervise the response to an OHS spill.
- d. Accomplish all quarterly, annual and triennial drill requirements.
- e. Incorporate drill and exercise requirements into routine business and emergency drills wherever practicable.
- f. Tailor training to include State and local emergency response laws, ordinances and regulations.
- g. Maintain training records and documentation as required by Federal, State and local regulations.
- h. Mitigate and clean up OHS spills from vessels and activities and reimburse, as appropriate, other commands that provide assistance.

CHAPTER 12

HAZARDOUS WASTE MANAGEMENT ASHORE

12-1 Scope

This chapter identifies requirements and responsibilities for the management of hazardous waste (HW) and medical/infectious waste at Navy shore facilities within the United States, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas Islands. Chapter 18 provides Navy policy with respect to Navy activities in foreign countries. Chapter 19 defines responsibilities for the management of hazardous materials (HM) aboard Navy ships, and section 12-5.2.1 defines responsibilities for the transfer of HM from Navy ships to shore facilities.

Chapter 3 and Appendix G describe the Navy's integrated logistics approach for effective HM control and management. This chapter complements the approach by providing mandatory elements for an effective HW management program.

12-1.1 References. Although this chapter deals primarily with HW management, an effective overall HW management program must include HW and HM minimization and must integrate occupational safety and health policy into HW management. References are:

- a. 40 CFR 260-270, EPA Hazardous Waste Management Regulations;
- b. Botsford, J., et al. Regulated Medical Waste Definition and Treatment: A Collaborative Document. AORN JOURNAL (*Association of Operating Room Nurses, Inc*), vol. 58, no 1, pp. 111-114, July 1993 (NOTAL);
- c. OPNAVINST 5100.19D, Navy Occupational Safety and Health (NAVOSH) Program Manual for Forces Afloat (NOTAL);
- d. DOD Directive 4001.1 of 4 September 1986, Installation Management (NOTAL);
- e. DOD Directive 4160.21-M of August 1997, Defense Materiel Disposition Manual
- f. DOD Instruction 4715.4 of 18 June 1996, Pollution Prevention;
- g. BUMEDINST 6280.1A, Management of Infectious Waste.

12-2 Legislation

12-2.1 Resource Conservation and Recovery Act (RCRA). The Resource Conservation and Recovery Act (RCRA), which amended the Solid Waste Disposal Act, regulates the management of solid waste and HW. The Hazardous and Solid Waste Amendments (HSWA) of 1984 amended RCRA to include cleanup, through corrective action, of releases of HW at RCRA-regulated facilities. RCRA requires cradle-to-grave management of HW through a recordkeeping system that tracks shipments of HW, from the point of generation to ultimate disposal, using a manifest. HW treatment, storage, and disposal facilities are regulated through the issuance of operating permits. RCRA provides that EPA may delegate authority to States to regulate HW under State law in lieu of RCRA. Irrespective of EPA-delegated HW authority, State HW

substantive and procedural requirements, including the requirement to obtain State permits, are applicable to Navy facilities under the Federal Facility Compliance Act (FFCA).

12-2.2 Other Legislation. Several laws including the Hazardous Materials Transportation Act (HMTA), Occupational Safety and Health Act (OSHA), the Clean Water Act (CWA), the Clean Air Act (CAA), and the Emergency Planning and Community Right-to-Know Act (EPCRA) govern HW.

12-3 Terms and Definitions

12-3.1 Facility. For the purposes of this chapter, a facility is a contiguous piece of land with structures, other appurtenances, and improvements under common ownership or control.

12-3.2 Hazardous Waste. The term "hazardous waste" means a solid waste or combination of solid wastes which because of its quantity, concentration, physical, chemical, or infectious characteristics may:

- a. Cause or significantly contribute to an increase in mortality or to a serious irreversible or incapacitating reversible illness or
- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

The term solid waste includes solid, liquid, semi-solid, and contained gaseous material.

NOTE:

State regulations may be more stringent and take precedence over Federal regulations.

12-3.3 Hazardous Waste Generator. Any person, by site, whose act or process produces HW or whose act first causes a HW to become subject to regulation.

- a. **Class I Generator** (Large Quantity Generator). Monthly generation quantity of 1,000 kilograms (kg) (2200 pounds (lbs)) or more HW or 1 kg (2.2 lbs) or more acute HW.
- b. **Class II Generator** (Small Quantity Generator). Monthly generation quantity of 100 – 1,000 kg (220 - 2,200 lbs) HW or less than 1 kg (2.2 lbs) acute HW.
- c. **Class III Generator** (Conditionally Exempt Small Quantity Generator). Monthly generation quantity less than 100 kg (220 lbs) HW or less than 1 kg (2.2 lbs) of acute HW. Such generators are exempt from substantially all RCRA requirements. Further discussion is found in reference (a).

12-3.4 Infectious Waste. Infectious waste is liquid or solid waste capable of causing transmission of disease to humans when the following factors are present:

- a. There must be the presence of a pathogen, which is a microorganism that can cause infection. Many microorganisms are incapable of causing infection in humans.
- b. The pathogen must be of sufficient virulence, which is the disease evoking power of the microorganism. Not all pathogens are equally capable of causing infectious disease.

- c. The pathogen must be present in sufficient numbers of microorganisms for infection to occur.
- d. The microorganisms must have a portal of entry or a way to get into the body (either through mucous membranes or a puncture, cut, or wound).
- e. There must be a susceptible host. All persons are not equally susceptible to infectious diseases (reference (b)). The categories listed below are considered infectious waste:
 - (1) Medical wastes from isolation rooms are often considered infectious waste. However, only those items that are contaminated or likely to become contaminated with infectious material are defined as infectious waste.
 - (2) Microbiological wastes including cultures and stocks of etiological agents containing microbes that, due to their species, type, virulence, or concentration, are known to cause disease in humans. Examples include specimens from medical and pathology laboratories; discarded live vaccines; wastes from production of biologicals; cultures and stocks of infectious agents from clinical research and industrial laboratories; and, disposable culture dishes and devices used to transfer, inoculate, and mix cultures.
 - (3) Blood and blood products including waste blood, serum plasma, Pleurevacs, and hemovacs
 - (4) Pathological wastes including human tissues and organs; amputated limbs or other body parts; fetuses; placentas; and, similar tissue from surgery, delivery, or autopsy procedures
 - (5) Sharps (discarded medical devices that have been used in animal or human patient care), including hypodermic needles, syringes, trocars, blood vials, scalpel blades, Pasteur pipettes, specimen slides, cover slips, glass petri plates, and broken glass potentially contaminated with infectious material
 - (6) Contaminated animal carcasses, body parts, and bedding, including contaminated animal carcasses, body parts, and bedding of animals that were intentionally exposed to pathogens.

12-3.4.1 The following items are not considered infectious:

- a. Absorbent materials containing small amounts (<20 ml) of blood or body fluids and no free flowing or unabsorbed liquid.
- b. Used products for personal hygiene such as diapers, facial tissues, and sanitary napkins.
- c. Disposable products used during routine medical or dental procedures (e.g., rubber gloves, rubber dams, cotton and paper products, equipment trays, tubing, and catheters).
- d. Empty pill bottles and intravenous (IV) bags.
- e. Expired, unused culture tubes and plates.
- f. Packaging and overwrap.

12-4 Requirements

12-4.1 Hazardous Waste

a. **General.** Any activity that generates, transports, treats, stores, or disposes of HW and any activity that produces, burns, distributes, or markets any HW-derived fuels must notify the EPA or State environmental agency of their activities, obtain an EPA or State HW generator identification (ID) number, and comply with applicable Federal, State, and local HW laws and regulations.

Reference (a) contains the Federal RCRA regulations. Nearly all states are authorized by EPA to administer and enforce the RCRA program. A State with final authorization administers its HW program in lieu of EPA administering the Federal program in that State. When new, more stringent Federal requirements are issued, authorized States are obligated to enact equivalent authority within specified time frames. However, if such newly issued requirements are imposed under HSWA and are more stringent than the existing Federal RCRA program, they are enforceable by EPA until the State is granted authorization to do so. Compliance with applicable State and local HW regulations is also required.

b. **Identification of HW.** Generators must identify and designate all waste streams to determine if the waste streams are HW. HW is either "listed" (specifically named in Federal/State regulations) or may exhibit any of four characteristics:

- (1) Ignitability
- (2) Corrosivity
- (3) Reactivity

(4) Toxicity (as determined by the toxicity characteristics leaching procedure (TCLP) or additional procedures under State law).

A determination of whether any of these four characteristics apply to a waste can be made by reviewing the definitions in the appropriate Federal and State regulations, comparing the properties of the waste to those that define HW, or by using EPA-approved test methods. Mixtures of a solid waste and a listed HW are also considered hazardous and are regulated under RCRA, unless the listed HW was listed solely for the characteristic of ignitability, reactivity, and/or corrosivity. Such mixtures are excluded once they no longer exhibit a characteristic. It is the generator's responsibility to determine whether their waste is a HW subject to regulation under RCRA and/or applicable State and local laws.

NOTE:

Knowingly diluting a HW for the purposes of avoiding HW regulations is prohibited.

c. **HW Generation and Accumulation.** Threshold monthly generation rates and accumulation quantities are established in Federal or State regulations. A generator may accumulate hazardous waste on-site for 90 days or less without a permit or interim status provided certain waste management, contingency planning, and employee training requirements are met. A generator who accumulates HW for more than the times prescribed in Federal or State regulation becomes an operator of a storage facility, subject to RCRA permit requirements.

Generation rates between 100 and 1,000 kilograms per month subject the generator, known as a "Small Quantity Generator," to HW generator requirements that include obtaining an EPA ID Number and using the Uniform Hazardous Waste Manifest to ship wastes off-site. A Small Quantity Generator may accumulate HW on site for 180 days or less without a permit or interim status provided the quantity of waste accumulated on-site never exceeds 6000 kilograms and the Small Quantity Generator complies with all other applicable regulations. If more than 1,000 kilograms per month are generated, the generator and the waste are subject to full regulation under RCRA.

According to Federal HW regulations, HW accumulation at a satellite accumulation point is limited to a cumulative maximum of 55 gallons of all (not each) HW or one quart of acute HW. Satellite accumulation points must be located at or near the point of generation and be under the control of the operator of the process generating the HW at all times. Waste accumulated in excess of 55 gallons (cumulative) must be removed within 72 hours to a less than 90-day accumulation area or a permitted storage facility.

Generators are obligated to send their HW to treatment, storage, or disposal (TSD) facilities that comply with RCRA regulations. The generator must certify on the HW manifest that the method selected for treatment, storage, or disposal is the practicable method available to the generator that minimizes the present and future threat to human health and the environment. In addition, generators must certify that they have a HW minimization program in place to reduce the volume and toxicity of waste generated.

A generator who generates a HW subject to Federal land disposal restrictions must notify the TSD facility that the waste is a restricted waste or certify that the waste meets the requirements for land disposal.

d. **HW Transportation.** Transportation of HW off-site requires a HW manifest (see paragraph 12-4.1f). Transporters must have an EPA identification number to pick up and haul waste to a TSD facility. A transporter of HW is also subject to the hazardous material transportation requirements of the Department of Transportation (DOT), including labeling, marking, placarding, use of proper containers, spill reporting, and hazmat employee training.

e. **HW Treatment, Storage, and Disposal.** TSD facilities need a permit to continue existing operations or to initiate new operations. EPA initially developed a two-part permitting procedure. The Part A application conferred interim status to an existing TSD facility, allowing the TSD facility to operate until receipt of a decision on the Part B final permit application.

TSD facilities may only be expanded or significantly changed and still remain in an interim status with the approval of EPA regional offices or the State HW office. Interim status cannot be conferred on a new TSD facility if operation commenced after 19 November 1980. In such instances, a final permit must be applied for and obtained before operation begins. Any operation before award of a Part B permit or modification of an existing Part B permit must be approved by the cognizant State or EPA.

Any existing facility that becomes subject to RCRA, due to new regulations or amendments to the existing regulations, may be granted interim status after timely submission of a Part A application and may have a 12 month grace period to submit its Part B permit application.

f. **HW Manifest System.** The Uniform Hazardous Waste Manifest or State equivalent must accompany all HW transported over any public road. A generator who offers HW for transport off-site must prepare a manifest.

Further, the generator or designated representative must sign the manifest certifying that the shipment has been prepared according to applicable EPA and DOT regulations. In circumstances where a Public Works Center (PWC) or Defense Reutilization and Marketing Office (DRMO) is managing the pickup, transport, and disposal of HW for an activity, the PWC or DRMO may prepare the manifest, but the responsibility for correct and complete manifest preparation remains with the generator. The manifest does not replace DRMO Disposal Turn-in Document DD 1348-1A."

NOTE:

DRMO is not, in most cases, the HW generator and assumes none of the HW generator's responsibility for ensuring that wastes are correctly profiled or that manifests and all required documentation and reports are accurate and complete. DRMO may enter the facility's ID number on the manifest, but it remains the facility's responsibility to verify all information and to sign the manifest. If HM is turned into a DRMO for resale and is later determined by the DRMO to be HW, the DRMO will fulfill the generator requirements; however, records and manifests must be kept by the activity that actually generated the HW.

Sufficient copies of the manifest shall be provided to allow the generator, each transporter, and the TSD facility operator designated to receive the HW to keep a copy for their records and to allow copies to be returned to the generator for recordkeeping and distribution to the appropriate State(s). Activities shall also include a 24-hour manned duty telephone number in the "generator" block on each manifest. Each generator signatory shall be authorized in writing to sign the manifest for the installation commander and/or permit holder, as appropriate.

g. **Reporting and Recordkeeping.** There are many recordkeeping requirements applicable to generators and TSD facilities. Some records are specific to the generator or type of facility, and others are required by law. The following is a list of the most common reporting and recordkeeping requirements:

(1) **Biennial Reports.** Generators and TSD facilities shall submit a Biennial Report to the appropriate EPA regional office or designated State agency by 1 March of each even-numbered year (some States require an annual report rather than the biennial report). Maintain a copy of each Biennial Report for a period of at least 3 years from the due date of the report.

(2) **Manifests.** Except as otherwise required by State law, copies of manifests signed by the generator, the transporter, and the TSD owner or operator must be maintained for 3 years from the date the HW was accepted by the original transporter.

Generators who have not received a signed manifest within 35 days of the date the HW was shipped must contact the transporter or designated TSD facility to determine the status of the waste. Generators who do not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated TSD facility within 45 days of the date the HW was shipped must file an Exception Report with the EPA or State, as appropriate. Maintain a copy of each Exception Report for a period of at least 3 years from the due date of the report.

If a TSD facility accepts hazardous waste from an off-site source without an accompanying manifest, the TSD operator must submit a report to the EPA Regional Administrator or appropriate State office within 15 days after receiving the waste.

(3) Land Disposal Restriction (LDR) Notifications and Certifications. Generators of waste must determine whether their waste meets the LDR treatment standards, either by testing or using knowledge of the waste. With the initial shipment of waste, the generator must transmit a one-time written notice to each TSD facility receiving the waste and place a copy in the generator's file. The notice should include the applicable notification and certifications in accordance with the LDR section of reference (a). No further notification is necessary unless the waste or TSD facility change, in which case a new notification must be sent and a copy placed in the generator's file.

Whether waste determinations are based on knowledge of the waste or analytical testing, generators must retain all supporting data used to make the determination in the on-site files.

Generators managing and treating HW in less than 90 day tanks or containers, in order to meet applicable LDR treatment standards, must develop and follow a written waste analysis plan that contains all information necessary to treat the waste(s) in accordance with the LDR requirements. The plan must be kept on site in the generator's records. Generators managing hazardous waste in a Clean Water Act system must maintain a one-time note to the on-site file.

Generators must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation related to the RCRA Land Disposal Restrictions for at least 3 years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. The 3-year record retention period is automatically extended during the course of any unresolved enforcement action.

(4) Spill reporting. In the event of a fire, explosion, or other release which could threaten human health outside the facility or when a spill has reached surface water, the emergency coordinator must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802). Transporters shall report any discharge of HW in transit as specified in Federal regulations.

(5) Training Documentation. Generators and operators of TSD facilities shall develop a training plan and maintain personnel training records of those engaged in hazardous waste management, as required by Federal and State regulation. Federal RCRA regulations require that training records on current personnel be kept until closure of the facility. Training records on former employees must be kept for at least 3 years from the date the employee last worked at the facility.

(6) Pollution Prevention Annual Data Summary (P2ADS). Navy generators shall submit a P2ADS annual calendar year report to Naval Facilities Engineering Service Center (NFESC). (See paragraph 12-5.4).

Additional reports and recordkeeping requirements apply for specific types of facilities. A thorough review of the regulations applicable to the facility is necessary to ensure complete records are maintained.

Though not required by regulation, it is good practice to keep a written record of inspections such as that of waste accumulation and container storage areas. In addition, copies of correspondence with regulators, applications for permits and renewals, report of releases, documentation of response actions, etc., are all useful should a question arise.

h. **Federal Facility Compliance Act (FFCA).** The FFCA of 1992 subjects Federal facilities to all provisions of Federal, State, interstate, and local HW laws and regulations. The full range of available enforcement tools, including civil fines and penalties, are available to EPA, States, and local governments in enforcing these laws and regulations. The FFCA exempts agents, employees, and officers of the United

States from personal liability for any civil penalty arising from acts or omissions within the scope of their official duties. The installation or command whose activities most directly led to the violation(s) is responsible for payment of possible penalties with its operating budget or other available sources of funds. The FFCA also requires payment of any non-discriminatory fees or service charges assessed in connection with a Federal, State, interstate, or local HW regulatory program. This includes assessments in connection with the processing and issuance of HW permits; amendments to permits; reviews of plans, studies, and other documents; and, the inspection and monitoring of facilities.

12-4.2 Radioactive Mixed Waste. Sometimes RCRA HW becomes mixed with radioactive waste, creating a combination that is regulated under both RCRA and the Atomic Energy Act. The Director, Naval Nuclear Propulsion (N00N) is responsible for all policy and other matters pertaining to radioactive mixed waste resulting from naval nuclear propulsion work, and DCNO (Fleet Readiness and Logistics) (N4) is responsible for all other Navy mixed waste. RCRA Generator requirements apply to mixed waste. Refer to Navy Nuclear Propulsion Program (NNPP) policy on HW management.

12-4.3 Infectious Waste Management. Federal facilities that generate infectious waste are responsible for complying with State and local infectious waste regulations. Federal facilities that transport infectious waste across State lines are also responsible for complying with the transporter, disposal, and manifesting requirements for the State into which it is transported. Chapter 19 provides requirements for infectious waste generated aboard ships.

12-5 Navy Policy

12-5.1 General. Navy HW processes shall incorporate the following elements of pollution prevention:

- a. HM considerations, especially those relating to environment, safety, and health shall be incorporated into the earliest stages of Integrated Logistics System (ILS) planning and acquisition.
- b. Navy activities shall establish Pollution Prevention Plans per Chapter 3 that address HM and HW.

12-5.2 Compliance with HW Management Requirements. Navy activities shall comply with applicable HW management requirements. Compliance with all aspects of an EPA-approved State HW management program is considered compliance with Federal requirements. Activities shall ensure that contractors performing work for the Navy on Navy property comply with all applicable requirements while on site. If a State has a program that is not approved by EPA, Navy activities shall comply with both the State and Federal program requirements.

12-5.2.1 Applicability of RCRA to Navy Ships and Navy Shore Activities.

a. The 1992 FFCA provides that any HW generated on public vessels (which includes Navy vessels) shall not be subject to the storage, manifest, inspection, or recordkeeping requirements of RCRA until such waste is transferred to a shore facility, unless:

- (1) The waste is stored on the public vessel for more than 90 days after the public vessel is placed in reserve or is otherwise no longer in service, or
- (2) The waste is transferred to another public vessel within the territorial waters of the United States and is stored on such vessel or another public vessel for more than 90 days after the date of transfer.

Shore facilities shall manage used and/or excess HM and solid waste transferred from a Navy ship in compliance with applicable HM, HW, and solid waste regulations. For all used HM and solid waste determined by the shore facility to be HW, the shore facility shall be the HW generator and shall assume all responsibility for subsequent management of the HW except for funding. Ships' or fleet accounts as appropriate shall reimburse the receiving shore facility for HW handling and disposal and for lab testing if needed.

Ships' forces must follow the requirements of reference (c) with respect to the segregation, packaging, handling, safety, and labeling of HM. In addition ships shall segregate solid waste in compliance with regulations of the State in which the waste is to be off loaded; the receiving shore facility shall provide information regarding waste segregation requirements. The "Used Hazardous Material" label required by reference (c) for every container of used HM transferred from the ship contains a process description of how the HM was used. If the ship does not provide identification and labeling, the receiving shore activity may designate ship's used HM and solid waste based on laboratory analysis and charge the ship or fleet accounts for lab testing and any additional handling, documentation, administrative, and overhead costs. (Accurate process descriptions based on special knowledge will often suffice to allow the receiving shore facility to designate waste and is preferable to expensive lab testing).

Cooperative, "partnership" relations between shore facilities and ships are encouraged. Ships shall make every effort to ensure HM and solid waste are properly segregated, identified, and transferred; receiving shore facilities shall make every effort to provide quality, timely service to the ships. Shore facilities may refuse to accept HM or solid waste from ships if the segregation, identification, or process description is insufficient or incorrect, though to do so would acknowledge a breakdown in the desired cooperative "partnership" relation. Problems experienced with HM or solid waste received from a ship should be reported to the ship's commanding officer (CO), and if flagrant or repeated, to the ship's immediate superior in command (ISIC).

Retrograde of HM/HW from activities outside the continental U.S. (OCONUS) is not considered importation of HW under the RCRA regulations. Following proper arrangements, Navy activities shall accept OCONUS DOD shipments of HW.

A ship scheduled for decommissioning shall remove all HM prior to the date of decommissioning to the extent practical and appropriate. All HM shall be removed from the ship and processed by the supporting shore activity within 90 days after decommissioning.

Except where used HM is transferred from a tended unit to a tender, ships shall only transfer used HM to another ship during operations that preclude the ship entering a port in which normal offload may occur. Transfers of HM shall be for the sole purpose of returning the material to a supporting shore activity. The operational commander must approve such transfers prior to accomplishment. All used HM received by the receiving ship shall be offloaded within 5 working days of arrival at a U.S. Navy port.

b. **HM/HW from Navy Ships in Private Shipyards.** Federal contract law establishes several requirements regarding HW management under contracts, other than new construction, for work on board Navy ships in shipyards. Those requirements primarily affect Navy ships entering private shipyards for work administered by COMNAVSEASYSCOM; however, ships undergoing contracted work at Navy activities and under the cognizance of Commander, Military Sealift Command (COMSC) and Commander,

Naval Supply Systems Command (COMNAVSUPSYSCOM) are also affected. These requirements are discussed in Chapter 19.

c. **Transporting Shore-Generated Hazardous Waste Aboard Ship.** The Navy has not applied for, and ships have not been granted, EPA identification numbers for transport of HW. Therefore, ships shall not accept HW from a Navy shore activity, either within or outside the U.S., for transportation to another activity or facility, either within or outside the U.S. for processing and disposal.

12-5.2.2 Applicability of RCRA to Military Munitions and Ordnance. Navy and DoD current policy is that military munitions and ordnance are not a HW subject to regulation under RCRA until there is an intent for DoD to dispose of or destroy them. Sites used for disposal or destruction of ordnance by open burning or detonation, not related to training or Explosive Ordnance Disposal (EOD) emergency action, are subject to RCRA regulations. In that regard:

a. Assignment of munitions or ordnance to the Special Defense Property Account or Centralized Demilitarization Account does not by itself constitute a designation as a HW. Those munitions are, rather, awaiting a final decision of use, reuse, reclamation, sales, or demilitarization.

b. RCRA HW requirements are applicable to the demilitarization process at the point where a determination is made in writing by an authorized DoD representative that the munition shall be discarded rather than retained as an item of military ordnance.

c. After the decision is made to dispose of or destroy a military munitions or ordnance, such items shall be managed per RCRA requirements and strictly under DoD regulations. Any resultant products generated by a demilitarization process, such as ash, sludge, or a residue, shall be analyzed to determine if it is a RCRA HW and managed according to analytical results.

d. Explosive Ordnance Disposal (EOD) emergency response is a non-routine operation conducted to abate an imminent and substantial hazard to public health, safety, or property, and such operations are not subject to regulation under RCRA. If, however, the site is used for open burning or open detonation to dispose of or destroy munitions or ordnance not related to training or emergency operations, then such sites are subject to regulation under RCRA. RCRA requirements do not apply to EOD sites used solely for training or to sites used for emergency operations.

e. Munitions and ordnance firing/explosive activities for training, research and development, and quality assurance/quality control testing purposes shall not be considered demilitarization or disposal operations. Further, RCRA regulations are not applicable to the associated firing tables or impact ranges (as long as such areas are not used for demilitarization or disposal purposes).

f. Off-specifications small arms ammunition of calibers up to and including 50 caliber shall not be considered "reactive" within the definition in RCRA. They could, however, be HW for some other reason such as toxicity.

g. Navy installations shall comply with appropriate RCRA permitting requirements for demilitarization operations for conventional munitions and ordnance. Permits obtained shall adhere to existing DoD procedures and provide for adequate protection of human health and the environment and

shall avoid unnecessary administrative burdens or operational requirements that would limit DoD's flexibility in managing its demilitarization program.

h. The FFCA requires EPA, in consultation with DoD, to issue regulations on the application of RCRA to military conventional and chemical munitions. EPA is to examine DoD safety requirements and take them into account when issuing any regulations necessary to protect human health and the environment. When issued, these regulations shall further clarify the applicability of RCRA to conventional and chemical munitions.

i. The management of explosive HW components and associated explosive wastes shall be included in activity HW Management Plans.

12-5.3 HW Management Plans. Every Navy shore activity that generates HW shall develop and use a HW Management Plan or a HW management component in its Pollution Prevention Plan. A HW Management Plan or component(s) shall:

- a. Identify applicable Federal, State, and local regulations pertaining to the generation and management of HW.
- b. Identify training requirements and describe procedures for obtaining training and maintaining training records.
- c. Assign responsibilities for the generation, designation, handling, storage, treatment, disposal, and all documentation.
- d. Describe all HW generation and management procedures.
- e. Include or reference the HW minimization plan and goals.
- f. Include or reference contingency plans and emergency response procedures.

The plan or component shall be kept up to date to include changes in HW generation and management procedures, as well as changes in applicable Federal, State, and local HW regulations. The plan or component shall include or reference minimization procedures sufficient to achieve DOD minimization goals. Tenant activities may be covered by the host CO's HW Management Plan.

12-5.4 Navy Pollution Prevention Annual Data Summary (P2ADS). All Navy shore installations that generate, store, treat and/or dispose of HW shall prepare an annual calendar year report (Report Symbol DD-A&T(SA) 1485 (5090)), per guidance provided by Naval Facilities Engineering Service Center (NFESC). A completed annual report for the previous calendar year shall be sent to NFESC by 16 March. NFESC will provide the data to claimants for review prior to submitting a final report to CNO. All Class I and II generators shall report. Installation reports should include all Navy tenants that generate hazardous wastes. Class III generators who are tenants shall be included in the report of their host installation. Class III generators that are not under a host command are not required to report. See Chapter 14 for a discussion of other solid waste reporting.

12-5.5 Navy and Defense Logistics Agency (DLA) Interface on HW. The DLA's Defense Reutilization and Marketing Service (DRMS) is designated the responsible agency for worldwide disposal of

all HW. However, reference (d) permits COs to contract directly for HW disposal service when, "...they can get a combination of quality, responsiveness, and cost that best satisfies their requirements. ...such decisions should be concurred in by the component chain of command to ensure that installation contracts and disposal criteria are at least as stringent as criteria used by DRMS."

Navy installations shall use DLA HW contract disposal services as much as economically and operationally feasible. However, for those wastes not managed by DLA or when necessary to get the combination of quality, responsiveness, and cost that best satisfies installation requirements, Navy installations may request some other appropriate contract authority to provide contracting services for HW disposal. An installation not using DRMS contract services shall insure the contract requirements comply with Federal, State, and local HW regulations; shall ensure contract requirements and contract quality control procedures are at least as stringent as those used by DRMS; and, shall obtain concurrence by their major claimant. Refer to the HW disposal contract standards provided in Chapter 10, Attachment 2, of reference (e). Generator liability and responsibilities are the same whether using DLA HW contracting services or any other HW contracting service.

12-5.6 HW Minimization. Navy activities shall reduce HW generation and disposal per reference (f) and by implementing a combination of the following procedures and processes in priority order:

- a. Eliminating and/or reducing, at the source, the use of HM by changing the process, equipment, requirement, or materials used.
- b. Substituting a less hazardous/toxic HM in the process.
- c. Recycling/recovery and reuse of HM.
- d. Reducing and/or eliminating excess and expired shelf-life HM.
- e. Treating HW to reduce the volume or to reduce it to a less toxic or non-hazardous state.
- f. Destruction of HW.
- g. Disposal as a last resort.

When requirements in technical directives or weapon system procedures require use of HM beyond the control of the activity, appropriate action shall be taken to advise the cognizant Echelon 2 command of the need for appropriate action.

12-5.6.1 Certification. Federal laws and regulations require certification on HW manifests that the activity, insofar as is economically practicable, has a program to minimize the volume and toxicity of wastes generated. To make such a certification, Navy activities shall have a pollution prevention plan or hazardous waste minimization plan with Plan of Action and Milestones (POA&M). See Chapter 3.

12-5.6.2 Goals. The long-term Navy goal is to eliminate HW disposal to the maximum possible extent by eliminating the use of HM and/or by implementing best management practices (BMPs) and best demonstrated available technology (BDAT).

12-5.7 Training

- a. Every person who produces, packages, handles, treats, or transports hazardous waste shall have received applicable NAVOSH Worker Right- to-Know Training on hazardous materials; shall receive applicable training as shown on Figure 12.1; and, shall receive job-specific training regarding hazardous waste safety, packaging, labeling, handling, documentation, transportation, and turn-in procedures specific to their installation. Training curricula shall be tailored to include State and local HW laws and regulations. Each command shall maintain training records and documentation as required by Federal, State, and local regulations.
- b. Every person involved in hazardous waste management at naval shore facilities shall receive the general environmental overview training specified in Chapter 24 of this instruction; shall receive specific comprehensive training on Federal, State, and local HW regulations related to their job assignment; and, shall be familiar with the provisions of this chapter.
- c. Every person who directly affects HW transportation safety in commerce shall receive training on compliance with applicable DOT requirements and HM transport safety.
- d. Environmental professionals at COMNAVFACENGCOM and Engineering Field Divisions (EFDs)/Engineering Field Activities (EFAs), Navy Regional Environmental Coordinators, major claimant and regional commander environmental staffs, and legal environmental staff shall receive the general environmental overview training specified in Chapter 24 of this instruction, introductory or executive overview training in hazardous waste management, and shall be familiar with the provisions of this chapter.

12-6 Responsibilities

12-6.1 COMNAVFACENGCOM shall:

- a. As requested, provide technical assistance to major claimants and activities in complying with Federal, State, and local HW laws and regulations and in the preparation of activity HW management and Pollution Prevention Plans.
- b. Prepare an annual Pollution Prevention Annual Data Summary. The report shall show progress toward achieving goals by each major claimant and the Navy as a whole and other information as directed by CNO (N45).
- c. Assist ships, claimants, and shore activities in reaching a long-range goal of elimination of HW disposal to the maximum extent possible.
- d. Designate and supervise Public Works Centers (PWCs) in receiving, storing, and shipping HW.
- e. As requested, assist shore activities in obtaining permits for all new HW management facilities.
- f. Pay fees for applications and permits for construction of Military Construction (MILCON) funded HW management facilities from funds appropriated for the project.

12-6.2 COMNAVSUPSYSCOM shall:

- a. Establish and implement an HMC&M program as required by reference (f) throughout the supply system.
- b. Maintain and update procedures and instructions to ensure that transportation, storage, and handling of HM/HW fully complies with applicable regulations.
- c. Develop a program for the acquisition, stocking, and supply of conforming containers required for the transportation and storage of HW.
- d. Include provisions in inter-service support agreements (ISSA) with DLA for DLA/DRMS/DRMO support of HW requirements Navy-wide.

12-6.3 Director of Naval Nuclear Propulsion (N00N) is responsible for all matters pertaining to radioactive mixed waste resulting from naval nuclear propulsion plants.

12-6.4 Chief, Naval Education and Training shall develop and provide training on the occupational safety and health aspects of HW and HM applicable to Navy personnel.

12-6.5 BUMED shall:

- a. Ensure reference (g) instruction on infectious waste management for Navy medical treatment facilities is current.
- b. Ensure that subordinate commands comply with Federal, State, local, and Status of Forces Agreement (SOFA) requirements regarding the identification, generation, handling, storage, transport, treatment, and disposal of infectious waste.

12-6.6 Major claimants and subordinate commands shall:

- a. Ensure that their activities comply with applicable Federal, State, and local HW laws and regulations.
- b. Ensure subordinate commands develop and use HW Management Plans or a HW management component of Pollution Prevention Plans as required by section 12-5.3.
- c. Budget and allocate sufficient resources to ensure shore activities manage HW per all applicable Federal, State, and local HW laws and regulations, including the assignment and training of operational and management personnel, operation and maintenance of equipment and facilities, transport and disposal of waste, etc.
- d. Ensure their activities comply with Navy HM and HW management and reporting requirements.

12-6.7 Commanding officers of shore activities in coordination with the appropriate regional commander shall:

- a. Develop and use a HW Management Plan or HW component of a Pollution Prevention Plan as required by section 12-5.3 of this chapter.
- b. Budget, fund, and manage HW in full compliance with applicable substantive and procedural Federal, State, and local HW laws and regulations.
- c. Cooperate with Federal, State, and local HW regulatory officials.
- d. Provide reports and other required data and information to Federal, State, and local HW regulatory agencies.
- e. Submit a Pollution Prevention Annual Data Summary to NFESC.
- f. If CO of host activities, serve as the HW generator for the "site" or "facility" as defined by the applicable regulatory agency and obtain and maintain applicable HW generator ID number.
- g. If CO or officer in charge of a tenant activity, comply with the policies of this manual and with written HW Management Plans established by the host CO.
- h. Provide training for all personnel involved in HW management and operations under applicable Federal, State, and local requirements.
- i. If in charge of port facilities, receive HM from ships and process it for reuse or disposal per applicable Federal, State, and local regulations.
- j. If a generator of infectious waste:
 - (1) Comply with the infectious waste management procedures specified in reference (g).
 - (2) Determine, evaluate, and comply with Federal, State, local, or SOFA regulations that are more stringent than the requirements in reference (g).
 - (3) Request technical assistance, as required, from cognizant NAVFACENGCOM or BUMED in carrying out required actions.
 - (4) Budget and fund the operation and maintenance of facilities and equipment necessary to handle, store, transport, treat, and dispose of infectious waste per applicable Federal, State, local, or SOFA regulations.

12-6.8 Commanding officers of shore activities assigned to receive used/excess HM, solid waste, or infectious waste from ships and HW from other shore activities shall:

- a. Receive ships' used/excess HM and solid waste and process it for reuse or for disposal as HW per Federal, State, and local environmental laws and regulations.

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- b. Provide accessible facilities to receive HW and to store it per applicable EPA and/or State regulations until the material is disposed or transferred to DLA.
- c. Provide accessible facilities to receive and store infectious waste per applicable Federal, State, local, or SOFA regulations until disposal of the materials.
- d. Provide for disposal of infectious waste per applicable Federal, State, local, or SOFA regulations.
- e. Manage infectious wastes in foreign countries to assure protection of human health and the environment, as well as meet any applicable SOFA requirements.

12-6.9 Fleet CINCs and type commanders, as appropriate, shall:

- a. Reimburse Navy shore activities receiving ships' used/excess HM and solid waste for expenses incurred for laboratory analysis, HW handling, storing, and disposal.
- b. Reimburse Navy shore activities receiving ships' infectious waste for expenses incurred in handling, storing, and disposing of the material.

Health and Safety Training Requirements for Hazardous Waste and Emergency Response

Hazardous Waste Clean-Up Sites		Other Emergency Response Staff	
Staff			
• Routine site employees	40 hours initial 24 hours field 08 hours annual refresher 24 hours supervised field	Level 1 - First responder (awareness level) ¹	Sufficient training or proven experience in specific competencies
• Routine site employees (minimal exposure)	24 hours initial 08 hours field 08 hours annual refresher	Level 2 - First responder (operations level) ²	Level 1 competency and 8 hours initial or proven experience in specific competencies
• Non-routine site employees	24 hours initial 08 hours field 08 hours annual refresher		Annual refresher
Supervisor/Managers of			
• Routine site employees	40 hours initial 24 hours field 08 hours hazardous waste management 08 hours annual refresher	Level 3 - HAZMAT technician ³	24 hours of Level 2 and proven experience in specific competencies
• Routine site employees (minimal exposure)	24 hours initial 08 hours field 08 hours hazardous waste management 08 hours annual refresher	Level 4 - HAZMAT specialist ⁴	Annual refresher 24 hours of Level 3 and proven experience in specific competencies
• Non-routine site employees	24 hours initial 08 hours field 08 hours hazardous waste management 08 hours annual refresher	Level 5 - On-the-scene incident commander ⁵	Annual refresher 24 hours of Level 2 and additional competencies Annual refresher
Treatment, Storage, and Disposal Sites			
Staff			
• General Site employees	24 hours initial or equivalent 08 hours annual refresher		
• Emergency response personnel	Trained to a level of Competency Annual refresher		

Note: See 29 CFR 1910.120 (e) and (p)(7).

Note: See 29 CFR 1910.120 (q)(6).

¹ *Witnesses or discovers* a release of hazardous materials and who is trained to notify the proper authorities

² *Responds* to releases of hazardous substances in a defensive manner, without trying to stop the releases

³ Responds aggressively to stop the release of hazardous substances

⁴ Responds with and in support to HAZMAT technicians, but who has specific knowledge of various hazardous substances

⁵ Assumes control of the incident scene beyond the first-responder awareness level

Figure 12.1

APPENDIX P

ENVIRONMENTAL RESPONSE PROCEDURES FOR SUNKEN VESSELS

1. Background

Many older, historic U.S. Navy vessels have sunk around the world due to armed conflict, act of God, or other reason. As these vessels age, corrosion or other natural processes may result in a failure in hull integrity or associated systems, leading to potential releases of oil into the sea. Such situations can present difficult questions of national sovereignty, jurisdiction, political sensitivity, and legal responsibility. Because each situation is unique, the appropriate U.S. response to potential oil releases from historic U.S. Navy vessels can only be determined on a case-by-case basis. This appendix outlines environmental response procedures for oil releases from sources that have been reported to be, or may be identified as, sunken U.S. Navy vessels.

This appendix in no way implies or creates any legal liability on behalf of the Navy not otherwise provided by existent U.S. law. Under no circumstances do the procedures described in this appendix obligate the Navy to perform any action on any vessel, or constitute tacit admission of fault, imply legal liability, or grant authority to obligate funds to carry out preemptive response actions on sunken Navy vessels. Further, this appendix does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the U.S. Navy, the United States, its agencies, its officers, or any person.

2. Procedures

These procedures describe a process that, upon receipt of a report alleging an oil release from a sunken Navy vessel, the Navy will use to evaluate the incident and implement steps that facilitate an appropriate response under the circumstances. These steps will include initiation of a review/decision panel composed of subject matter experts from pertinent commands, allocation of responsibilities, and recommendations for appropriate responses, if any, based on the existing circumstances presented by the oil release incident on a case-by-case basis.

2.1 Review Panel

Upon notification or discovery of an oil release that may be attributed to a sunken Navy vessel, a review panel, convened by CNO (N45), will meet to address issues, coordinate actions, and make recommendations to DASN (E) concerning Navy's response to the event. At a minimum, the review panel should include the commands/activities shown in Table P1.

The review panel will make recommendations to DASN (E) concerning the Navy's appropriate response for each vessel on a case-by-case basis. Pertinent factors to be considered when addressing releases from sunken Navy vessels include legal liability, political implications, technical feasibility of response, magnitude of the release, historical significance of the vessel, whether the vessel may contain human remains, environmental impacts, interest by foreign governments, and interest from other U.S. Government agencies.

Table P1 – Minimum Review Panel Representation

Command	Functions
CNO (N45 - N452 & N45J)	Policy, resources, legal, environmental planning, public affairs
CNO (N3/N5)	Fleet coordination and operational tasking
JAG Admiralty (Code 11)	Legal
OLA - Legislative Division	Congressional inquiries
NAVSEASYSKOM – (SEA 00C & SEA 00T)	Technical support, response actions, environmental planning
CINCPACFLT or CINCLANTFLT – (N465 (as appropriate))	Local support (assets, media, etc)

2.2 Navy Actions

Table P2 presents an outline of procedures that the review panel may follow when notified of a potential oil release from a sunken vessel. This is a general outline and the actual process used may vary based on the nature of the release, the resources at risk, and other factors.

Table P2 – Outline of Procedures

A. Determine Title
Evaluate location and probability of vessel being Navy owned
Investigate any transfers and chain of custody
B. Determine Risk
Conduct literature/document research on sinking
Determine ship condition
Determine expected quantity of fuel on board
Evaluate need for a physical survey
Evaluate feasibility of conducting surveys (including technical approach and cost)
Evaluate applicable law if any
C. Determine Appropriate Response
Assess/survey the scene, as needed
Determine options/alternatives
Provide recommendations to chain of command
D. Respond if Appropriate for the Circumstances

NAVSEASYSKOM (00C) shall work with the Navy Historical Center to research the subject vessel as a potential source of the release. If there are any questions surrounding ownership or title, Navy JAG Admiralty shall provide support to resolve such issues prior to conducting a risk assessment. Only where the vessel in question is determined to be a Navy vessel will the review panel determine the appropriate actions, if any.

NAVSEASYSKOM (00C) will work with the applicable Fleet staff in developing risk assessments including ship information, alternative response actions, and potentially affected resources.

NAVSEASYSKOM (00C) and the Fleet staff representative shall summarize the information and present options for action to the review panel for consideration. DASN (E) or his designee shall approve any release to outside agencies of information developed or decisions reached by the review panel. CNO (N45) and DASN (E) shall approve the distribution of any information developed or decisions reached by the review panel to the media. CNO (N45J) shall coordinate any legal issues that arise with Office of Judge Advocate General, Admiralty and Maritime Law Division (Code 11) and OGC (I&E), as well as legal representatives from other commands represented on the review panel. If DASN (E) determines that on-scene response actions are appropriate, NAVSEASYSKOM (00C) shall assume technical lead and work with the appropriate Fleet to ensure effective use of Navy resources. Environmental planning, if required for proposed actions, shall be coordinated through CNO (N456) and NAVSEASYSKOM (00T).

2.3 Coordination with Other Agencies

The review panel shall assist DASN (E) in coordinating with other Federal and State agencies that may have jurisdiction over property or resources that may be affected by operations on sunken vessels, or delegate authority to coordinate with other agencies. The Federal agencies involved may include the Department of State, Department of Interior, U.S. Coast Guard, EPA, NOAA, or others. The level of assistance required will vary depending on the nature of the actions considered and/or taken.

2.4 Funding

Advance programming for funds is not an available option in the case of unspecified future oil response actions. If the review panel determines that site surveys are needed to fully assess the risk, or that response and/or follow-on remediation operations are warranted for a specific incident, coordination with ASN (FM&C) and FMB shall be initiated to identify potential funding options for each incident on a case-by-case basis. When advance planning is possible, claimants shall use POM/PR process to identify necessary funds.